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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/741,601	12/18/2000	Larry J. Rapp	TIM 1618--005	4763

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EXAMINER

MOONEYHAM, JANICE A

ART UNIT	PAPER NUMBER
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3629

DATE MAILED: 01/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/741,601

Applicant(s)

RAPP ET AL.

Examiner

Jan Mooneyham

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. This is in response to the applicant's communication filed on October 31, 2003.

Claims 1-14 are currently pending. Claims 15-20 were withdrawn.

Election/Restrictions

2. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-14, drawn to a system and method for interactive scheduling, classified in class 705, subclass 9.
 - II. Claims 15-20, drawn to a method for developing a website, classified in class 707, subclass 10.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

During a telephone conversation with on January 9, 2004 a provisional election was made with traverse to prosecute the invention of Group I, claims 1-14. Affirmation of this election must be made by applicant in replying to this Office action. Claims 15-20 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the

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application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Claim Rejections - 35 USC § 112

3. The applicant has amended the claims and therefore the rejection under 35 U.S.C. 112, second paragraph, as to Claims 3 and 8-14 is withdrawn.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 8-14 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The basis of this rejection is set forth in a two-prong test of:

- (1) whether the invention is within the technological arts; and
- (2) whether the invention produces a useful, concrete, and tangible result.

For a claimed invention to be statutory, the claimed invention must be within the technological arts. Mere ideas in the abstract (i.e., abstract idea, law of nature, natural phenomena) that do not apply, involve, use, or advance the technological arts fail to promote the "progress of science and the useful arts" (i.e., the physical sciences as opposed to social sciences, for example) and therefore are found to be non-statutory subject matter. For a process claim to

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pass muster, the recited process must somehow apply, involve, use, or advance the technological arts.

In the present case, claim 8 only recites an abstract idea. The recited steps of merely prompting a user and presenting an appointment book and updating a repository does not apply, involve, use, or advance the technological arts since all of the recited steps can be performed in the mind of the user or by use of a pencil and paper. These steps only constitute an idea of how to schedule an appointment.

Additionally, for a claimed invention to be statutory, the claimed invention must produce a useful, concrete, and tangible result. In the present case, the claimed invention of prompting a user in selecting an appointment time (repeatable) and scheduling an appointment (i.e., useful and tangible) produce a useful, concrete, and tangible result.

Although the recited process produces a useful, concrete, and tangible result, since the claimed invention, as a whole, is not within the technological arts as explained above, claim 8 is deemed to be directed to non-statutory subject matter.

Response to Amendment

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over

O'Connor et al. (US 2001/0011225) (hereinafter referred to as O'Connor).

Referring to Claims 1 and 3:

O'Connor discloses web server having an appointment scheduling software application ((Fig. 1) page 1 [0008]) and a central database repository at said web server for storing appointment data based on said customer's selections (Fig. 1, page 1, [0007]).

O'Connor further discloses receiving a customer's selection of a vendor, a service, a data, and a timeslot, wherein said customer selects said date and said timeslot from an appointment book of dates and timeslots for said service provider presented to said customer page 1 {0007}.

O'Connor does not disclose an "add-on service related to said service, and a service provider at said vendor to provide said service" or "an adjacent service related to said service." However, this difference is only found in the nonfunctional descriptive language describing the intended use of the software. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide for additional, add-on, or ancillary services to be performed by the software since this adds little, if anything, to the claimed structure and thus does not serve as a limitation on the claims to patentably distinguish over the prior art.

Referring to Claims 2-6:

Although O'Connor discloses a customer vendor selection (Fig. 3), the fact that the vendor selection is a selection from a group consisting of personal care vendors, health care vendors, and auto care business, that the repository can store customer profile information, that the software is adapted to send an email confirmation, or that the software is operation at a web site for said vendor, or that the web server has an appointments page is all nonfunctional descriptive language. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include any of these limitations since they add little, if anything, to the claimed structure and thus do not serve as a limitation on the claims to patentably distinguish over the prior art.

6. Claims 8-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over O'Connor et al (Pub. No.: US 2001/0011225) (hereinafter referred to as O'Connor) in view of Glazer et al. (US 2002/0032588) (hereinafter referred to as Glazer) and further in view of Breitenbach et al. (US 2002/0016729) (hereinafter referred to as Breitenbach).

Referring to Claim 8:

O'Connor discloses a method for scheduling an appointment comprising the steps of:
prompting a customer to select a vendor (Fig. 3, page 1 [0009], col. 2 [0023]);
prompting said customer to select a service (page 1, [0007];
prompting said customer to select a service provider at said vendor (page 3, [0032];
prompting said customer to select a date to receive said selected service (Fig. 2, page 3 [0031];

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prompting said customer to select a time to receive said selected service (page 3 [0031]; prompting said customer to select an add-on service based on said selected vendor, said selected service, said selected service provider, said selected date, and said selected time (page 1 [0010], page 3 [0029-0030]; and

updating a central appointment repository based on said selected vendor, said selected service, said selected service provider, said selected date to receive said selected service, said selected time to receive said selected service, and said selected add-on service [page 1 [0011], page 4 [0038].

O'Connor does not disclose presenting to said customer an appointment book of dates and timeslots for said service provider and said customer's selection from said appointment book of a data to receive said selected service and customer's selection of a time to receive said service. However, Glazer discloses presenting to said customer an appointment book of dates and timeslots for said service provider and said customer's selection from said appointment book of a data to receive said selected service and customer's selection of a time to receive said service (Fig. 2., page 1 [0007]).

It would have been obvious to one of ordinary skill in the art to incorporate into the method of O'Connor the teachings of Glazer since a system like this is easily used by the customer and easily controlled by the sponsor ({0004}).

O'Connor does not specifically disclose prompting said customer to select an add-on service. However, Breitenbach discloses a method which allows an individual to schedule an event and also schedule one or more ancillary tasks and sub-tasks associated with the event (page 5 [0072]).

It would have been obvious to one of ordinary skill in the art to incorporate into the method of O'Connor the ancillary tasks and sub-tasks software as taught in Breitenbach because it allows for more efficient and accurate scheduling (page 2 [0014].

Referring to Claim 9:

O'Connor discloses the method of claim 8 wherein the step of prompting said customer to select a service comprises the step of prompting said customer to select one of a plurality of services from a menu (page 3 [0031]).

Referring to Claim 10:

Breitenbach further discloses the method of claim 9 wherein the step of prompting said customer to select an add-on service comprises the steps of:

identifying a service to be performed at the same time as the selected service (Fig. 7 (66))
identifying a service provider who can perform said identified service; and presenting said identified service to said customer (Fig. 7, 67).

Referring to Claim 11:

Breitenbach discloses the method of claim 8 further comprising the step of prompting said customer to select an adjacent service (Fig. 6).

Referring to Claim 12:

Breitenbach further discloses the method of claim 11 wherein the step of prompting said customer to select a service comprises the steps of:

identifying a service to be performed before or after the selected service (Fig. 6);
identifying a service provider who can perform said identified service; and presenting said identified service to said customer (Fig. 6, Fig. 8).

7. Claims 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over O'Connor as applied to claim 8 above, and further in view of Mozayeny et al. (US 2002/0035493).

Referring to Claim 13:

O'Connor does not disclose the method of claim 8 wherein the step of prompting said customer to select a time to receive said selected service comprises the step of prompting said customer to select a time at which another customer has scheduled an appointment.

However, Mozayeny discloses a method wherein the step of prompting said customer to select a time to receive said selected service comprises the step of prompting said customer to select a time at which another customer has scheduled an appointment (Page 14, [00137], Figs. 1-10, 13).

It would have been obvious to one of ordinary skill in the art to incorporate into O'Connor the teachings of Mozayeny since it allows multiple parties or entities to communicate with each other as well as with the other party or entities of the other party when scheduling and making reservations (page 1[0005-0006]).

Referring to Claim 14:

Mozayeny further discloses the method of claim 8 further comprising the step of sending a email to said customer confirming said selected vendor, said selected service, said selected service provider, said selected date to receive said selected service, said selected time to receive said selected service, and said selected add-on service (page 2 [0014]- appointment information can be automatically went to the first party or second party via email, fax, or IVR).

Response to Arguments

Applicant's arguments with respect to claims 1-14 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Slotznick (US Patent 5,983,200) discloses a web page which provides for ancillary services.

Caulfield (US 2002/0065702) discloses a method for optimally scheduling a sequence of tasks on the basis of the availability of technicians.

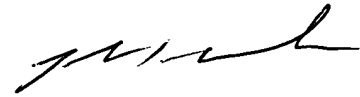
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jan Mooneyham whose telephone number is (703) 305-8554. The examiner can normally be reached on Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (703) 308-2702. The fax phone number for the organization where this application or proceeding is assigned is 703-308-3691.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

JM



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